

ILLINOIS STATE POLICE
Office of the Director

JB Pritzker
Governor

Brendan F. Kelly
Director

November 14, 2019

Lucy Parsons Labs
Filed via MuckRock.com
82684-03197068@requests.muckrock.com

FOIR #19-3411 Response

Dear Ms. Labs:

Thank you for writing the Illinois State Police (“ISP”) with your request for information pursuant to the Illinois Freedom of Information Act (“FOIA”), 5 ILCS 140/1 *et seq.* The ISP acknowledges receipt of your FOIA request dated November 01, 2019. (*See* attached request).

Section 3(g) of FOIA, in relevant part, provides:

“(g) Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information. Before invoking this exemption, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any public body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information.” (5 ILCS 140/3(g)).

The request is unduly burdensome under section 3(g) of FOIA, 5 ILCS 140/3(g). The lack of clarity on the actual records within the investigation you are requesting and the number of records that could conceivably be responsive to your request would burden the operations of the public body. The burden on the public body outweighs the public interest.

According to Cheri Strode, ISP, Records Management Section, the factual basis on why this request is unduly burdensome is as follows:

“Three different databases would have to be searched to determine how many investigative cases were opened during the time frame requested. Those databases include Indices, I-Case, and TraCS. These searches would actually be required to be performed by Illinois Department of Innovation and Technology (“DoIT”), which is an agency separate and distinct from the ISP. If such search was performed by DoIT, it would be expected to identify approximately 5,200 to 6,600 investigative cases opened each year. The requester seeks information for an eight year period (2012 - 2019). Thus, there could be more than 41,600 investigative files involved in the search for responsive records.

Within our current systems, search warrants are not saved into files independently and identified as being search warrants. These documents are included as an attachment to a 4-3, Investigative Report, the majority of the time. Consequently, each investigative file would have to be manually reviewed to see if the application for search warrant was there and then continue to look for any further 4-3’s that would have identified if the search warrant was executed, the outcome of that search warrant, etc. It is anticipated that such a search would require hundreds of hours.

Staff with the Records Management Section would be required to review the records for responsiveness and exemptions before providing a final response. They would need to exercise careful judgment and expend a tremendous amount of personnel hours to review these documents. The time required for this request would result in delays for other FOIA requests and contribute to a backlog of FOIA requests.”

The burden on the public body outweighs the public interest in these records. Therefore, the ISP is extending to you the opportunity to clarify and reduce your request to manageable proportions. If you fail to notify the ISP within five (5) business days of your proposal to reduce the request to manageable proportions, your request will be deemed denied.

If you elect to respond, please advise whether your request involves a commercial or for profit purpose. Please also describe the public interest involved in your request and how that interest outweighs the burden of compliance on the public body. In a binding opinion, the Attorney General’s Office, Public Access Counselor (“PAC”) recognized the requirement for a requester to meet its burden regarding the public interest. In Ill. Att'y. Gen. Pub. Acc. Op. No. 16-008, issued Nov. 1, 2016, at 6-7, the PAC stated, “The court also found that the requester failed to identify a public interest that outweighed the burden of compliance” *citing Shehadeh v. Madigan*, 2013 IL App (4th) 120742, ¶ 35, 996 N.E.2d 1243, 1249 (2013).

You have the right to have the decision of the ISP reviewed by the Public Access Counselor (“PAC”) at the Office of the Attorney General (5 ILCS 140/9.5(a)). You can file your Request for Review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: (217) 782-1396
E-mail: publicaccess@atg.state.il.us

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this letter (5 ILCS 140/9.5(a)). Please note that you must include a copy of your original FOIA request and this letter when filing a Request for Review with the PAC.

You also have the right to seek judicial review of the decision of the ISP by filing a lawsuit in the State circuit court (5 ILCS 140/11).

Sincerely,

BRUCE A. KUGLER
FREEDOM OF INFORMATION OFFICER

By: Porcia Sledge
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Springfield, Illinois 62703